

Serial No.: 10/075,970

### **REMARKS**

#### **Interview**

As an initial matter, Applicant's undersigned representative wishes to thank Examiners Tyson and Ho for the courtesy of a telephonic interview on September 9, 2008. The undersigned is substantially in agreement with the Interview Summary, but believes that the interview subject matter is better characterized by the following: "Discussion was held regarding certain embodiments of applicant's invention and the prior art applied. It was agreed upon that a fundamental difference..."

#### **Status of the claims**

Claims 1, 3, 5-7, 9-21 and 46-50 are pending in the application.

Support for the amendment to claim 1 can be found throughout the specification (see, in particular, paragraph [0046]).

Support for new claims 49 and 50 can be found, for example, in paragraphs [0037] and [0038] of the specification.

Thus, no new matter is added.

#### **Rejection under 35 USC 112, Second Paragraph**

Claims 17 and 18 have been rejected under 35 U.S.C. 112, second paragraph as being indefinite based on reference to an "additional" layer when a first layer is not set forth.

This rejection is believed to be moot in view of the above claim amendments.

Reconsideration and withdrawal of the rejection under 35 U.S.C. 112, second paragraph are respectfully requested.

#### **Rejection over Eury and Bolz**

Claims 1, 3, 5-7, 9-21 and 46-48 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ding et al. US 6,099,562 (Ding) in view of Bolz et al. US 6,287,332 (Bolz). This rejection and its accompanying remarks are respectfully traversed.

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For example, Ding describes a coating for an implantable device or prostheses that includes (a) an undercoat of polymeric material containing an amount of biologically active material, particularly heparin, dispersed therein, and (b) a topcoat. Abstract.

The topcoat can be a biostable, biocompatible polymeric material which provides long term non-thrombogenicity to the device portion during and after release of the biologically active material. *Id.* As also indicated by the Examiner, the topcoat can be a bioabsorbable material. Col. 6, lines 50-58.

The undercoat materials described, on the other hand, are biostable hydrophobic elastomeric materials. See col. 3, lines 28-31, col. 7, lines 1-4 and col. 15, lines 31-38. See also the Field of the Invention (“[t]he present invention relates generally to providing biostable elastomeric coatings on the surfaces of implants...”) and the Summary of the Invention at col. 3, 60-62 (“[t]he present invention relates generally to providing biostable elastomeric coatings on the surfaces of implants...”).

Likewise, the stent prosthesis materials described are also biostable metals. See col. 7, lines 44-53.

Bolz describes bioresorbable metal stents.

However, it would not have been obvious to form Ding’s metallic inner core from a biodegradable metallic material as taught by Bolz, because doing so, contrary to the Examiner’s assertion, would not enable the stent to substantially degrade over time (e.g., at least the biostable hydrophobic undercoat would remain).

For at least the above reasons, reconsideration and withdrawal of this rejection under 35 U.S.C. 103(a) are thus respectfully requested.

### **CONCLUSION**

Applicant submits all pending claims are in condition for allowance, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicant’s attorney at (703) 433-0510 in order that any outstanding issues be resolved.

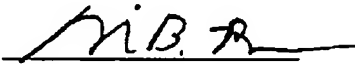
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**FEES**

If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

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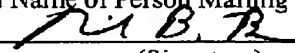
Respectfully submitted,

  
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